

JANUARY 17, 1817.

Read twice and committed to a committee of the whole House
on Monday next.

A Bill

For organizing, classing, and arming the Militia, and for calling them forth to execute the laws of the Union, suppress insurrection, and repel invasion, and to repeal the laws heretofore passed for those purposes.

1 *Be it enacted by the Senate and House of Representatives of*
2 *the United States of America, in Congress assembled, That*
3 each and every free able bodied white male citizen of the re-
4 spective States and Territories, resident therein, who is or
5 shall be of the age of eighteen years, and under the age of forty-
6 five years, (except as hereinafter excepted,) shall severally and
7 respectively be enrolled in the militia by the captain or com-
8 manding officer of the company, within whose bounds such citi-
9 zen shall reside, and that within twelve months after the pass-
10 ing of this act; and it shall, at all times hereafter, be the duty
11 of every such captain or commanding officer of a company to

12 enrol every such citizen as aforesaid, and also those who shall,
13 from time to time, arrive at the age of eighteen years, or being
14 of the age of eighteen years and under the age of forty-five
15 years, (except as before excepted,) shall come to reside within
16 his bounds, and shall without delay notify such citizen of the
17 said enrolment, by a proper non-commissioned officer of the
18 company, by whom such notice may be proved: That every
19 citizen so enrolled and notified shall, within six months there-
20 after, provide himself with a good musket, a sufficient bayonet
21 and belt, two spare flints, and a knapsack, a pouch with a box
22 therein to contain not less than twenty-four cartridges suited to
23 the bore of his musket, each cartridge to contain a proper
24 quantity of powder and ball; or with a good rifle, knapsack,
25 shot pouch, and powder horn, twenty balls suited to the bore
26 of his rifle, and a quarter of a pound of powder; and shall ap-
27 pear so armed, accoutred, and provided when called out to
28 exercise, or into service, except that when called out on
29 company days, to exercise only, he may appear without a knap-
30 sack: That the commissioned officers, non-commissioned offi-
31 cers, musicians, and privates, shall be armed, equipped, and
32 uniformed like the army of the United States; and every citi-
33 zen so enrolled, and providing himself with the arms, ammuni-
34 tion, and accoutrements required as aforesaid, shall hold the
35 same exempted from all suits, distresses, executions, or sales
36 for debt, or for the payment of taxes.

1 **SEC. 2.** *And be it further enacted,* That the Vice-President
 2 of the United States, the officers judicial and executive of the
 3 government of the United States, and the clerks employed by
 4 them, the members of both Houses of Congress, and their res-
 5 pective officers; all persons who shall have held a commission
 6 in the army or navy of the United States; all custom-house offi-
 7 cers, with their clerks; all post-officers, and stage drivers who
 8 are employed in the care and conveyance of the mail of the post-
 9 office of the United States; all ferrymen employed at any ferry
 10 on the post-road; all inspectors of exports; all pilots; all mari-
 11 ners actually employed in the sea-service of any citizen or mer-
 12 chant within the United States; and all persons who now are,
 13 or hereafter may be, exempted by the laws of the respective
 14 States, shall be, and hereby are, exempted from militia duty,
 15 notwithstanding their being above the age of eighteen, and un-
 16 der the age of forty-five years.

1 **SEC. 3.** *And be it further enacted,* That within one year
 2 after the passing of this act, the militia of the respective States
 3 shall be arranged into divisions, brigades, regiments, battalions,
 4 and companies, as the legislature of each State shall direct;
 5 and each division, brigade, and regiment shall be numbered at
 6 the formation thereof, and a record made of such number in
 7 the adjutant-general's office in the State; and when in the
 8 field, or in service in the State, each division, brigade, and regi-
 9 ment, shall, respectively, take rank according to their numbers,

10 reckoning the first or lowest number highest in the rank: That
 11 if the same be convenient each division shall consist of two
 12 brigades, and each brigade shall consist of four regiments; and
 13 that regiments, corps, and companies, shall, in all respects, be
 14 organized and officered like the regular army of the United
 15 States.

1 SEC. 4. *And be it further enacted,* That out of the militia
 2 enrolled, as is hereby directed, there shall be formed for each
 3 battalion at least one company of grenadiers, light infantry, or
 4 riflemen; and that to each division there shall be at least one
 5 company of artillery, which shall be formed of volunteers, at
 6 the discretion of the commander-in-chief of the State, and not
 7 exceeding one company to a regiment, nor more in number
 8 than one eleventh part of the infantry, and shall be uniformly
 9 clothed in regimentals, to be furnished at their own expense;
 10 the colour and fashion to correspond with the uniform of the
 11 army.

1 SEC. 5. *And be it further enacted,* That each battalion and
 2 regiment shall be provided with the State and regimental co-
 3 lours by the field officers, and each company with a drum and
 4 fife, or bugle horn, by the commissioned officers of the compa-
 5 ny, in such manner as the legislatures of the respective States
 6 shall direct.

1 SEC. 6. *And be it further enacted,* That there shall be an ad-
 2 jutant-general appointed in each State, whose duty it shall be

3 to distribute all orders from the commander-in-chief of the State
 4 to the several corps ; to attend all public reviews when the
 5 commander-in-chief of the State shall review the militia, or any
 6 part thereof ; to obey all orders from him relative to carrying
 7 into execution and perfecting the system of military discipline
 8 established by this act ; to furnish blank forms of different re-
 9 turns that may be required, and to explain the principles on
 10 which they should be made ; to receive from the several offi-
 11 cers of the different corps throughout the State returns of the
 13 militia under their command, reporting the actual situation of
 14 their arms, accoutrements, and ammunition, their delinquen-
 15 cies, and every other thing which relates to the general ad-
 16 vancement of good order and discipline : All which the seve-
 17 ral officers of the divisions, brigades, regiments, and battalions,
 18 are hereby required to make in the usual manner, so that the
 19 said adjutant general may be duly furnished therewith ; from
 20 all which returns he shall make proper abstracts, and lay the
 21 same annually before the commander-in-chief of the State.

1 SEC. 7. *And be it further enacted,* That the rules of service,
 2 and the system of discipline and police which are, or may be
 3 adopted for the government of the army of the United States,
 4 shall govern in the militia, and be uniformly practised accord-
 5 ingly.

1 SEC. 8. *And be it further enacted,* That it shall be the duty
 2 of the brigade major to attend the training of officers hereinafter

3 provided for, and the annual meeting of the militia composing
 4 their several brigades, during the time of their being under
 5 arms, as hereinafter provided ; to inspect their arms, ammuni-
 6 tion and accoutrements ; superintend the exercise and manœu-
 7 vres of the officers at their training, and introduce the system
 8 of military discipline, before described, throughout the brigade,
 9 agreeably to law, and such orders as they shall, from time to
 10 time, receive ; to make returns to the adjutant-general of the
 11 State, at least once in every year, of the militia of the brigade
 12 to which he belongs, reporting therein the actual situation of the
 13 arms, accoutrements, and ammunition of the several corps, and
 14 and every other thing which, in his judgment, may relate to
 15 their government and the general advancement of good order
 16 and military discipline ; and the adjutant-general shall make
 17 a return of all the militia of the State to the commander-in-chief
 18 of the said State, and a duplicate of the same to the War
 19 Department of the United States.

1 *SEC. 9. And be it further enacted,* That all the militia of the
 2 United States, liable to do duty under the preceding provisions,
 3 shall be classed by the proper authorities of the several States
 4 and Territories, within one year after the passing of this act, in
 5 the following manner, viz. : Those between eighteen and twen-
 6 ty-one years of age, shall be called the *minor class* ; those be-
 7 tween the age of twenty-one and thirty-one years, shall be called
 8 the *junior class*, and those over thirty-one and under forty-five
 9 years of age, shall be called the *senior class* of militia.
 10

1 SEC. 10. *And be it further enacted,* That once in every
 2 year all the officers of the respective brigades, (including the
 3 brigade major, brigade quarter master, and adjutants, and ex-
 4 cluding all other staff officers,) and all the sergeants of the respec-
 5 tive regiments, shall be assembled together within such brigade,
 6 at such time and place as may be provided by the legislature
 7 of the several States, for the purposes of training and discipline,
 8 and shall be kept together and encamped for the period of
 9 and during such time shall be regularly and
 10 assiduously trained, according to the discipline before pre-
 11 scribed.

1 SEC. 11. *And be it further enacted,* That for the purpose of
 2 attending such training, so many musicians may be detailed
 3 from the said brigade, or otherwise employed, as may be found
 4 necessary.

1 SEC. 12. *And be it further enacted,* That the officers, non-
 2 commissioned officers, and musicians so as aforesaid assem-
 3 bled, shall be entitled to receive for and during the term of
 4 service aforesaid, one half of the pay to which they would be
 5 entitled, according to law, if called into the military service of
 7 the United States. And each officer, non-commissioned officer,
 8 and musician, shall be further entitled to receive one ration
 9 per day but no other emoluments, which ration it shall be the
 10 duty of the brigade quarter master, to contract or supply at the
 11 expense and on the account of the United States.

1 *SEC. 13. And be it further enacted,* That the Secretary of War
 2 of the United States shall, as soon as the same may be practi-
 3 cable, provide for each brigade such arms, equipments, tents,
 4 and equipage as may be necessary for the purposes of this act,
 5 to be furnished under requisitions from the executive of the
 6 several States and Territories, which shall be previously made
 7 to the War Department: *Provided,* That the arms and equip-
 8 ments so delivered, shall be charged to the States and Territo-
 9 ries under the provisions of the act of April twenty-third, one
 10 thousand eight hundred and eight, for arming the whole body of
 11 militia: *Provided, also,* That in lieu of the appropriation under
 12 that act, there shall be applied annually, under the direction of
 13 the President of the United States, the sum of
 14 dollars for arming and equipping the whole body of militia.

1 *SEC. 14. And be it further enacted,* That such arms, equip-
 2 ments, tents, and camp equipage, as may be delivered under
 3 the foregoing provision, shall be receipted for by the officers
 4 designated for that purpose by the executive, and charged to
 5 the several States and Territories.

1 *SEC. 15. And be it further enacted,* That the officers and non-
 2 commissioned officers, when encamped under the preceding
 3 provisions, shall be subject to the rules and articles of war, and
 4 to trial by courts martial composed of militia officers only, and
 5 shall act in such capacity as may be assigned to them, respec-
 6 tively: *Provided,* That whenever any officer, non-commis-

7 sioned officer, musician, or private, shall fail to attend such
 8 encampment, or having attended, shall desert or absent himself
 9 without proper authority, conformably to military usage, and
 10 the orders of the commanding officer, he shall be subject to
 11 such penalty as a court martial may inflict, not exceeding
 12 nor less than dollars: *Provided,*
 13 *also,* That no substitutes shall be received to discharge the
 14 duties required in the provisions for encamping and disciplin-
 15 ing the militia under this act.

1 SEC. 16. *And be it further enacted,* That whenever the
 2 United States shall be invaded, or in imminent danger of
 3 invasion from any foreign nation or Indian tribe, in the opinion
 4 of the President of the United States, it shall be his duty to
 5 call forth such numbers of the militia, most convenient to the
 6 place of danger, or scene of action, as he may judge necessary
 7 to repel such invasion.

1 SEC. 17. *And be it further enacted,* That whenever the laws
 2 of the United States shall be opposed, or the execution thereof
 3 obstructed, by combinations too powerful to be suppressed by
 4 the ordinary course of judicial proceedings, or by the powers
 5 vested by law in the marshals, it shall be the duty of the Pre-
 6 sident of the United States to call forth such portion of the
 7 militia as may, in his opinion, be necessary to suppress such
 8 combinations, and to cause the laws to be duly executed.

1 SEC. 18. *And be it further enacted,* That whenever it may be

2 necessary, in the judgment of the President of the United
3 States, to call forth the militia under the sixteenth section of
4 this act, it shall be his duty forthwith, by proclamation, to com-
5 mand such insurgents to disperse and retire peaceably to their
6 respective abodes, within a time to be limited in the procla-
7 mation.

1 SEC. 19. *And be it further enacted*, That in case of an insur-
2 rection in any State or Territory, against the governmen
3 thereof, it shall be the duty of the President of the United
4 States, on the application of the legislature of such Stat or
5 Territory, or of the executive of such State or Territory, when
6 the legislature thereof cannot conveniently be convened, to call
7 forth any number of the militia of such State or Territory as
8 may, in his opinion, be sufficient to suppress such insurrection.

1 SEC. 20. *And be it further enacted*, That whenever the mili-
2 tia, or any part thereof, shall be called out by the President of
3 the United States, in compliance with the provisions of this act,
4 every officer or soldier, properly detached under orders of the
5 President of the United States, shall, from the time of his de-
6 tachment, be considered as a militiaman in the service of the
7 United States, and shall receive the pay and emoluments to
8 which he may be entitled by law from the time of his detach-
9 ment accordingly.

1 SEC. 21. *And be it further enacted*, That whenever, from any
2 of the occurrences mentioned in this act, it shall become the

3 duty of the President of the United States to call forth the mi-
 4 litia, he may require the governor or commander-in-chief of the
 5 militia in the State or Territory in which the militia, or any
 6 part thereof, shall be called out, or such officer of the militia as
 7 he may judge expedient to execute his orders, so far as may be
 8 applicable to their respective commands.

1 SEC. 22. *And be it further enacted*, That whenever any part
 2 of the militia shall be called into the service of the United
 3 States, their organization shall be the same as is, or may at the
 4 time be, provided by law for the organization of the army of
 5 the United States.

1 SEC. 23. *And be it further enacted*, That the militia employed
 2 in the service of the United States shall be subject to the rules
 3 and articles of war, which are, or shall be, provided for the
 4 government of the army of the United States.

1 SEC. 24. *And be it further enacted*, That every officer or
 2 non-commissioned officer who shall fail to obey the orders of
 3 the President of the United States, or the orders of a superior
 4 officer of the militia, which may be issued in virtue of orders
 5 from the President of the United States, in any of the cases
 6 before recited for calling forth the militia, shall forfeit and pay
 7 a sum not exceeding months' pay, nor less than
 8 months' pay, which he would be entitled to receive if he were
 9 in the actual service of the United States, to be determined and
 10 adjudged by a court martial; and such officer shall, moreover,

11 be sentenced by such court martial incapable of holding any
 12 commission in the militia, in the service of the United States,
 13 for life, or term of years ; such court martial to be appointed, by
 14 proper authority, from the standing officers of the militia in the
 15 State or Territory in which such delinquent shall be an officer.

1 SEC. 25. *And be it further enacted,* That every officer, non-
 2 commissioned officer, musician, or private of the militia, who
 3 shall be detached in obedience to this act, and shall disobey the
 4 orders of the President of the United States, or of any superior
 5 officer, for the purpose of carrying into effect the object of this
 6 act, shall be liable to be tried by a court martial, and receive
 7 such punishment as is pointed out by the martial law for similar
 8 offences ; and, moreover, the non-commissioned officer, musi-
 9 cian or private, detached as aforesaid, or shall be accepted as
 10 substitutes, as hereinafter provided, who shall refuse or neglect
 11 to march and join his corps, when ordered so to do by his su-
 12 perior officer in the detachment, shall be considered a deserter
 13 from the service of the United States, and shall be dealt with
 14 accordingly: *Provided, nevertheless,* That any non-commis-
 15 sioned officer, musician, or private of the militia, who shall be
 16 detached for the service of the United States, agreeably to the
 17 provisions of this act, shall have a right to furnish an able-bodied
 18 man, belonging to the militia, as a substitute.

1 SEC. 26. *And be it further enacted,* That courts martial to
 2 be composed of militia officers only, who are in the actual ser-

3 vice of the United, for the trial of militia drafts, detached, and
 4 called into the actual service of the United States, by virtue
 5 of this act, whether acting in conjunction with the regular
 6 forces or otherwise, shall, whenever necessary, be appointed,
 7 held, and conducted, in the manner prescribed by the rules and
 8 articles of war for appointing, holding, and conducting courts
 9 martial for the trial of delinquents in the army of the United
 10 States.

1 SEC. 27. *And be it further enacted,* That all fines which may
 2 be inflicted by a court martial, in virtue of this act, shall be cer-
 3 tified by the president of such court martial to the marshal of
 4 the district in which the delinquent shall reside, or to one of
 5 his deputies; also to the comptroller of the Treasury of the
 6 United States, who shall record such certificate in a book to
 7 be kept for that purpose; and also a certificate to the Secretary
 8 for the Department of War, stating the term for which such
 9 offender shall, by sentence of the court martial, have been ad-
 10 judged incapable of holding any commission in the militia in
 11 the actual service of the United States, which certificate shall
 12 be recorded in a book to be kept for that purpose, and shall be
 13 strictly observed by the Secretary for the Department of War
 14 in the admission of officers of the militia in the service of the
 15 United States. And the said marshal, or his deputy, shall forth-
 16 with proceed to levy the said fine, with costs, by distress and
 17 sale of the goods and chattels of the delinquent, which costs,

18 and the manner of proceeding, with respect to the sale of the
19 goods distrained, shall be agreeable to the laws of the State or
20 Territory in which the same shall be in other cases of distress ;
21 and in case no goods or chattels can be found whereof to levy
22 such fines, it shall be the duty of the marshal, or his deputy,
23 to commit such delinquent to jail, there to remain until the
24 fines and all legal costs to be paid, or the prisoner otherwise
25 released from his imprisonment by order of law.

1 SEC. 28. *And be it further enacted,* That the marshals shall
2 pay all fines which shall have been collected by them, or their
3 respective deputies, under the authority of this act, into the
4 Treasury of the United States, within two months after they
5 shall have received the same, deducting five per cent. for their
6 own trouble. And in case of any failure, in this respect, on
7 the part of the marshal, it shall be the duty of the comptroller
8 of the Treasury to give notice to the district attorney of the
9 United States, who shall proceed against such marshal in the
10 district court for the recovery of the same.

1 SEC. 29. *And be it further enacted,* That the officers, non-
2 commissioned officers, musicians, and privates of the militia,
3 who shall be called into the service of the United States, in
4 obedience to the provisions of this act, shall be entitled to, and
5 receive the same pay, rations, and emoluments, (clothing ex-
6 cepted,) as the officers of corresponding grades, non-commis-
7 sioned officers, musicians, and privates of the army of the Uni-

8 ted States, shall at the time be entitled by law to receive, and,
 9 to the non-commissioned officers, musicians, and privates, an
 10 addition of dollars a month in lieu of clothing.

1 SEC. 30. *And be it further enacted*, That if any officer, non-com-
 2 missioned officer, musician, or private of the militia called into
 3 the service of the United States, by virtue of this act, shall be
 4 disabled by known wounds received in the actual service of the
 5 United States, while in the line of his duty, he shall be placed
 6 on the list of invalid pensioners of the United States, at such
 7 rate of pension, and under such regulations as are, or may be
 8 provided by law for the officers, non-commissioned officers,
 9 musicians, and privates, under similar circumstances, of the
 10 army of the United States.

1 SEC. 31. *And be it further enacted*, That in all cases when a
 2 brigade of militia shall be called into the service of the United
 3 States, under the provisions of this act, it shall be the duty of
 4 the brigade major of such brigade, to inspect and muster the
 5 same, and sign the muster rolls. If less than a brigade of the
 6 militia be called into the service of the United States, then it
 7 shall be the duty of a brigade major of the division wherein
 8 such militia may rendezvous, to inspect and muster the same
 9 and sign the muster-rolls ; two musters to be made in the man-
 10 ner aforesaid, one on the assembling, and the other on the dis-
 11 charge of such militia. If it should so happen that there be
 12 no brigade major in the brigade, where such militia shall be

13 called out, or in the division where they shall rendezvous, the
14 commanding officer may direct any officer under the rank of
15 lieutenant-colonel, to inspect and muster the militia so called
16 forth.

1 SEC. 32. *And be it further enacted,* That any officer, non-
2 commissioned officer, musician, or private, of the militia, who
3 shall have committed any offence while in the service of the
4 United States, may be tried and punished for the same, al-
5 though his term of service shall have expired; and the court
6 martial for the trial of such offences shall be composed of mili-
7 tia officers, without regard to their having been in the service
8 of the United States.

1 SEC. 33. *And be it further enacted,* That the marshals of the
2 several States and Territories, and their deputies, shall have the
3 same powers in executing the laws of the United States, as
4 sheriffs and their deputies in the several States have, by law,
5 in executing the laws of the respective States.

1 SEC. 34. *And be it further enacted,* That all the laws hereto-
2 fore enacted for organizing, classing, arming, and calling forth
3 the militia into the service of the United States be, and hereby
4 are repealed, so far as respects the organization, classification,
5 arming, and calling the militia into the service of the United
6 States, subsequent to the passage of this act.